

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAION WILLIAMS,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

8:21CV308

MEMORANDUM AND ORDER

Mr. Williams was convicted, while he was a juvenile, of committing second degree murder and use of a weapon to commit a felony. He was sentenced to 70 to 80 years in prison on or about June 26, 2012.

He now brings a habeas corpus action which is duplicative of the habeas corpus action filed in the District Court of Lancaster County, Nebraska, under Case No. CI17-2536. That habeas corpus action was denied. Then he filed another habeas corpus action which Judge Andrew R. Jacobsen denied for a variety of reasons.

Petitioner's claim is not a jurisdictional defect, so it is not a proper ground for habeas relief. *See Sanders v. Frakes*, 295 Neb. 374, 379 (2016). (“[A] writ of habeas corpus will not lie to discharge a person from a sentence of penal servitude where the court imposing the sentence had jurisdiction of the offense and the person of the defendant, and the sentence was within the power of the court to impose.”); *see also Peterson v. Houston*, 284 Neb. 861, 869 (2012) (mere errors or irregularities in the proceedings are not grounds for habeas relief.) The Douglas County District Court has jurisdiction over the offenses and petitioner, and the sentences were within its power to impose. *See Neb. Rev. Stat. § 43-247* (Supp. 2013) (district court and juvenile court had concurrent jurisdiction over any juvenile who committed a felony).

(Filing 1-1 at CM/ECF p. 6.)

Judge Jacobsen was correct in his multiple findings. In short, Williams is not entitled to any relief in the state courts.

Finally, a petitioner cannot appeal an adverse ruling on his petition for writ of habeas corpus under § 2254 unless he is granted a certificate of appealability. 28 U.S.C. § 2253(c)(1); 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b)(1). The standards for certificates (1) where the district court reaches the merits or (2) where the district court rules on procedural grounds are set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-485 (2000). I have applied the appropriate standard and determined that Petitioner is not entitled to a certificate of appealability.

IT IS ORDERED that the petition for habeas corpus (Filing 1) filed is denied and dismissed with prejudice. A separate judgment will be issued. However, no certificate of appealability will be issued.

Dated this 7th day of September, 2021.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge